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6 **UNITED STATES DISTRICT COURT**

7 **DISTRICT OF NEVADA**

8 UNWIRED PLANET, LLC, )

9 Plaintiff, )

10 vs. )

11 APPLE, Inc., )

12 Defendant. )

3:12-cv-00505-RCJ-VPC

13 **ORDER**

14 Upon Defendant's motion, the Court transferred this case to the Northern District of  
15 California pursuant to 28 U.S.C. § 1404(a) and ordered the Clerk to close the case in this District.  
16 The Clerk of the transferee district docketed the case on September 6, 2013, (*see* Docket in Case  
17 No. 4:13-cv-4134 (N.D. Cal.), ECF No. 161-2, at 2), depriving this Court of further jurisdiction  
18 over the case, *see Lou v. Belzberg*, 834 F.2d 730, 733 (9th Cir. 1987). On September 9, Plaintiff  
19 asked this Court to reconsider transfer. The Court has no jurisdiction to reconsider.

20 Plaintiff argues that because the transferee Clerk entered a "Notice Acknowledging  
21 Receipt of Case Transfer" (the "Notice") into its docket on September 11, 2013, the transfer was  
22 effective on that date, and the Court therefore retains jurisdiction to rule on the motion to  
23 reconsider filed two days earlier. The Court disagrees for two reasons.

24 First, the date of the Notice is not necessarily the docketing date. The transferee court  
25 docketed the case on September 6, 2013, because that is the "Date Filed" listed at the top of the

1 transferee Court's docket, and the "Case transferred in" date in the docket. Also, the transferee  
2 court entered a "Case Scheduling Order" on September 6, 2013 indicating a filing date of  
3 September 6, 2013, assigning a district judge, ordering alternative dispute resolution, and  
4 scheduling a case management conference. It is therefore beyond dispute that the case was  
5 docketed on or before that date. The Notice was just that: a *notice* that the case had been (past  
6 tense) transferred in. The date of the notice is not relevant to the date of transfer, except that the  
7 transfer must logically have occurred some time before the notice issued. It is the date the docket  
8 is created that defines when the case has been "docketed." Here, that date is clearly September 6,  
9 2013. If the Clerk had never issued a separate notice, either by mistake or by policy, that would  
10 of course not mean the case had never been transferred or docketed despite the existence of a  
11 docket, but that is a corollary of Plaintiff's theory.

12         Second, even if the case had not been docketed by the transferee court until the very hour  
13 before the present Order issued, the Court would still lack jurisdiction. The Court's jurisdiction  
14 to enter orders in a case is cut off upon the docketing of the case in the transferee court,  
15 regardless of when a motion asking the transferor court to take some action is filed. Plaintiff  
16 implies a rule according to which a transferor court would retain jurisdiction indefinitely over  
17 any motion filed in the transferor court before the transferee court docketed the action. Plaintiff  
18 cites as authority an unreported case from another court of this District, which in turn relies on no  
19 other authority. *See Lens.com, Inc. v. 1-800 Contacts, Inc.* No. 2:11-cv-918, 2012 WL 5839503,  
20 at \*1 (D. Nev. Nov. 16, 2012). The Court respectfully disagrees. Such a rule would essentially  
21 imply the ability of one trial court to enter orders directly affecting the administration of a case  
22 properly pending in another trial court, a procedure the Court believes no appellate court would  
23 tolerate. Plaintiff has two avenues of relief at this stage: (1) petition the Court of Appeals for an  
24 extraordinary writ reversing this Court's transfer order; or (2) ask the transferee court to  
25 retransfer, and then petition the Court of Appeals for an extraordinary writ reversing that court's

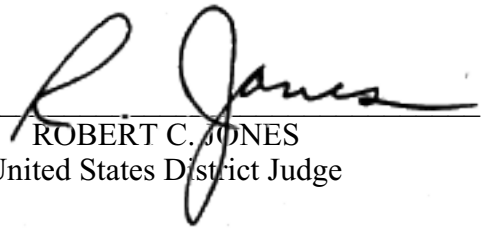
1 order if the motion to retransfer is denied. *See Posnanski v. Gibney*, 421 F.3d 977, 980–81 (9th  
2 Cir. 2005).

3 **CONCLUSION**

4 IT IS HEREBY ORDERED that the Motion to Reconsider (ECF No. 156) and the  
5 Motion to Shorten Time (ECF No. 155) are DENIED.

6 IT IS SO ORDERED.

7 Dated this 11th day of December, 2013.

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9 ROBERT C. JONES  
United States District Judge